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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,547

10/24/2003

Seiji Terazawa

2271/60963-Z

1164

7590

07/26/2004

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EXAMINER

BEATTY, ROBERT B

ART UNIT

PAPER NUMBER

2852

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,547	TERAZAWA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert Beatty	2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 117,118 and 139-151 is/are pending in the application.
- 4a) Of the above claim(s) 117,118 and 144-151 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 139-143 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/465,674.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

1. Claims 117-118,144-151 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/13/2004.

2. Applicant's election with traverse of invention II in the reply filed on 5/13/2004 is acknowledged. The traversal is on the ground(s) that the applicant states that 35 U.S.C. 121 restriction practice requires the restricted inventions must be independent and distinct. The applicant argues that the restricted inventions are not independent (i.e. no disclosed relationship between the subjects disclosed). This is not found persuasive because while it is agreed that inventions which are independent are restrictable, it is also understood that inventions which are related but distinct are also restrictable. See MPEP 806. Related inventions which are distinct having varying criteria for determining whether they should be restricted. See MPEP 806.05 and in particular MPEP 806.05(d) for the instant case.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 139-141,143 are rejected under 35 U.S.C. 102(e) as being anticipated by Schoch et al.

Schoch et al. teach an image forming apparatus comprising a developing apparatus having a toner reservoir 10. A nozzle (toner conduit) 12 is inserted in the toner reservoir. An air pump (see Fig.2) pumps air into the toner reservoir via the supply pipe 42 so as to fluidize the toner and toner is discharged out of the container via toner outlet 16 (lower end of nozzle) to the developing apparatus.

4. Claim 142 is rejected under 35 U.S.C. 102(b) as being anticipated by Yabaneta (JP# 06-175490).

Yabaneta teach a developing apparatus 6 and a toner container 11 located above. A air suction pump 12 will pump air into the toner container via conduit 16 so that toner can be drawn out via a toner conduit 17 and into a collection well (see Fig. 3 and 6). Since this collection well is located lower than the outlet it draws out toner (collects the toner) by using gravity. A trap door 32 will dispense the toner into the developing apparatus.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Beatty whose telephone number is (571) 272-2130. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read 'Robert Beatty', with a long horizontal flourish extending to the right.

Robert Beatty  
Primary Examiner  
Art Unit 2852

July 21, 2004